

STATEMENT OF SENATOR SLADE GORTON
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SENATE COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION
AVIATION SUBCOMMITTEE HEARING
ON AVIATION COMPETITION
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You have heard me raise the question, and I have seen it quoted in your testimony. Is the cure worse than the disease? I hope to resolve some of my concerns today in the face of a valid effort on the part of the Department of Transportation to protect consumers from the effects of anti-competitiveness in the airline industry.

As I understand it, the Department's proposed policy statement against unfair exclusionary conduct seeks to prevent incumbent carriers from using predation to exclude or drive out new entrant air carriers in their hub markets. The examples that the Department has pointed to most often include situations where the incumbent carrier has matched the new entrant's fares, significantly increased seat capacity in the market, and has converted nearly its entire stable of high-fare business passengers into low-fare passengers.

According to the Department, this is not the same behavior that the incumbent carriers adopt when competing against financially strong Southwest Airlines. Department officials maintain that the only logical explanation for this self-diversion of revenue is the prospect of recouping these losses once the new entrant has gone out of business.

The Department's examples speak for themselves. We have seen incumbent carriers attempt to recoup their losses once a new entrant has exited the market, by raising prices to at least pre-entry levels and by withdrawing seat capacity.

Even so, the rules must not be too restrictive for the incumbent carriers. We must do everything possible to ensure that the competition

guidelines do not chill legitimate fare cutting that benefits consumers. For instance, I believe that the Department should specify that all three prongs of its test for predation -- fare matching, capacity dumping, and significant self-diversion of business fare revenues -- must be present before the incumbent's behavior is considered predatory. I promise to work with the carriers and the Department on the air traveler's behalf to seek the appropriate balance.

The carriers asked the Department to clarify its basis for action against anti-competitive behavior, and the Department has responded with a valiant attempt. I hope and expect that all the witnesses today, as well as other interested parties, will suggest modifications to improve the Department's policy.

We have an impressive array of witnesses before us, and I want to thank you for taking the time to share your insights. In addition to exploring the Department of Transportation's competition guidelines, I hope that we will also have the opportunity to discuss your thoughts on the potential for consolidation among U.S. airlines, and the effect of that consolidation on competition.

Please do not misinterpret me. I am not here to judge the proposed Northwest-Continental alliance, and the individual carriers involved, harshly. I suspect that the proposed alliance is an appropriate and innovative response to current market forces. Nevertheless, we should not hesitate to discuss the alliance and what benefits it offers air travelers. If approved, will the alliance trigger further consolidation in the domestic industry? If so, does that prospect have negative consequences for passengers?

Again, thank you, and I look forward to your testimony.